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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/817,010	04/03/2004	Gordon Walker Nugent		1590

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Gordon W. Nugent
160 Rivergate Drive
Wilton, CT 06897-3611

01/17/2008

EXAMINER

VANAMAN, FRANK BENNETT

ART UNIT

PAPER NUMBER

3618

MAIL DATE

DELIVERY MODE

01/17/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/817,010

Applicant(s)

NUGENT, GORDON WALKER

Examiner

Frank B. Vanaman

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 92-103 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 92-103 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on Nov. 23, 2007 has been entered.

Status of Claims

2. Newly added claims 92-103 are pending, claims 1-91 are all canceled.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 92-99 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seydel et al. (US 5,160,154) In view of Wu (US 5,201,540) and Raichlen (US 6,540,242). Seydel et al. teach a tall cart which may be utilized for the intended use as a shopping cart and which can accommodate a plurality of containers (90) which constitute bins or baskets having a deep-walled slot (95) in at least one wall; the containers connectable to the cart with a plurality of quick-attach and -detach locks forming retaining elements (20) constituted by slots, which interact with the containers to position a container wall (91, 93) between a locking projection (20, 21) and a tall spine (10); and a plurality of respective ledges forming support means (30) which may partially support an item not secured by the quick connect and -release locks, a lower most of (e.g., 45) which is located at a substantial height, the structure constructed of a light metal tubing (see col. 3, lines 62-68), the cart having attachments at least in the form of wheels (50) mounted on a leg (40) by quick release hub connectors (55, note col. 4, lines 37-41). Seydel et al. additionally teach that the tall cart may be arranged so that the locking portions (20, 21) are positioned at differing locations in alternate embodiments (compare figure 1a with figure 1b and figure 5)

The reference to Seydel et al. fails to teach a height-reducing means on the spine including either the spine divided into upper and lower segments connected by a

locking hinge (claim 92), or a means for reducing the height of the spine (claim 96). Wu teaches a cart having a spine portion (1, 2, 8, 9) divided into upper (1, 8, 9) and lower (2) portions connected by a locking hinge (33, 34, 35, figure 5) to allow selective folding of the frame, and the spine being separated into further first (9) and second (1) telescoping portion, wherein a telescoping lock (82, figure 6) is used to maintain an extended or retracted condition. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the spine of the cart taught by Seydel et al. with a lockingly telescoping and/or lockingly foldable connection as taught by Wu for the purpose of allowing the spine taught by Seydel et al. to be condensed into a more compact configuration when not in use.

Seydel et al. as modified by Wu fail to teach that the locking portions (20, 21) are slidable upwardly and downwardly (claim 92) or constitute quick-connect and quick-release means which may themselves be released (claim 96). Initially, it is noted that Seydel et al. do, however, teach that the lock portions (20, 21) may be positioned in different locations on the spine. Raichlen teaches that it is well known to provide a locking upper connection device which may be mounted such that a lock (16, 19) is connected with a sliding block (15) which is slidably disposed on a spine-shaped channel (14) to allow variable positioning. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the locking portions (e.g., 20, 21) taught by Seydel et al., as modified by Wu, to include a block portion slidable upwardly and downwardly in a channel as taught by Raichlen, for the purpose of allowing the locations of the locks to be varied, allowing the accommodation of different sized containers. Such a structure would result in a locked condition when the combined lock and block is lowered, and an unlocked condition when raised.

As regards the intended use recitations, the cart of Seydel et al. as modified by Wu and Raichlen is capable of being maneuvered into proximity with a surface bearing a container, such that a container may be transferred to the cart without its entire weight being accommodated by a user, and the combined cart is understood to be operable by an operator, woman or man, having the strength to operate the elements associated with the cart.

5. Claims 100-103 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaffer (US 4,047,724) in view of Wu (US 5,201,540). Shaffer teaches a tall shopping cart (10) usable with a plurality of wire basket containers (34, 36, 38), the cart having a frame (12, 42) a plurality of pin mounts (28, 30, 32) which interact with mating mounting portions (top rims- not separately referenced- of 34, 36, 38), the cart taught to be made from a light metal alloy (see col. 1, lines 61-62), further including attachments in the form of large wheels (68, 70, larger, for example than 22), which are mounted on folding struts (40, 52, 92). The reference to Shaffer fails to teach the frame as being telescopic and having plural telescope locks. Wu teaches a cart having a frame portion (1, 2, 8, 9) and being separated into a first (9) and second (1) telescoping portion, wherein a telescoping lock (82, figure 6) is used to maintain an extended or retracted condition. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the frame of the cart taught by Shaffer with a lockingly telescoping connection as taught by Wu (e.g., by providing each member 42 taught by Shaffer as two telescoping parts, and each with a respective telescope lock) for the purpose of allowing the frame portion taught by Shaffer to be condensed into a more compact configuration when not in use.

Response to Comments

6. Applicant's Comments, filed with the amendment and Request for Continued Examination, have been carefully considered. As regards the locking portions including blocks, the examiner agrees that neither Wu nor Seydel et al teach such a structure. Seydel et al., however, do anticipate that the lock portions may be re-located, and Raichlen, now combined therewith, teaches that it is well known to provide a lock with a sliding block end (e.g., 15). As regards the addition of the recitation of legs to connect the wheels to the cart, note that Seydel et al., Wu, and Shaffer all teach that it is well known to provide legs connecting wheels to the cart. All three above mentioned references were of record at the time the most recent claims were submitted, so

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applicant's statement that such a recitation defines over either Seydel et al. or Shaffer (the latter being long of record) is not entirely clear, and not persuasive.

Comment regarding the application of Raichlen to claim 96. In view of the recitation of the plurality of means for quick-connect and quick-release retention, and the further recitation (see claim 96, lines 8-9) of a release of the retention means, Raichlen is applied in combination with Seydel et al. and Wu so as to provide a structure which meets the condition of the means for quick-connect and quick-release retention being able to be released, in that Seydel's structure, whilst allowing a quick connect and release of a burden or container, does not itself "release", as best understood.

Conclusion

7. Any inquiry specifically concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is 571-272-6701.

Any inquiries of a general nature or relating to the status of this application may be made through either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A response to this action should be mailed to:

Mail Stop _____
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450,

Or faxed to:

PTO Central Fax: 571-273-8300

F. VANAMAN
Primary Examiner
Art Unit 3618

/Frank B Vanaman/
Primary Examiner, Art Unit 3618